THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 12364 of 2006

Oral order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner while working as Driver with the respondents-APSRTC was removed from service vide proceedings dated 14.02.1985 on the charge of unauthorized absenteeism. Assailing the said order, he raised an industrial dispute in I.D. No. 427 of 1992, and the Labour Court, vide award dated 04.08.1994, allowed the I.D., set aside the order of removal and directed the respondents to reinstate him with continuity of service, the delay period i.e. from 14.02.1985 to 01.06.1990 should not be counted for the total length of service for future benefits, and he shall not be entitled to backwages. Pursuant to the said award, the petitioner was reinstated into service on 06.03.1995, and he retired from service 01.01.2002. It is the case of the petitioner that at the time of his retirement, the respondents did not pay him gratuity for the period from 14.02.1985 to 06.03.1995 i.e., from the date of his removal till the date of his reinstatement into service. Hence, he filed the present writ petition.

Though the petitioner relying upon a judgment of a learned single Judge of this Court in **M. Rama Rao v. Asst. Traffic Manager, APSRTC**[1], contends that when once the Labour Court set asides the order of removal and directs reinstatement of the petitioner into service with continuity of service, the respondents-APSRTC cannot deny payment of gratuity to the petitioner for the period for which he was out of service as a result of the order of removal, the fact remains, the petitioner has not made any request to the respondents.

The learned Standing Counsel for the respondents submits that though the Labour Court directed reinstatement of the petitioner with continuity of service, the period for which the petitioner remained out of employment, was directed not to be counted for the total length of service for future service benefits, and as such, he is not entitled to gratuity for the period he was out of employment.

The petitioner has not produced any material to show that he

made representation to the respondents requesting payment of gratuity for the period he remained out of employment, i.e. from the date of passing of order of removal till the date of his reinstatement into service by virtue of the award passed by the Labour court, and that the respondents have rejected his request/claim.

In the circumstances, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to submit appropriate representation to the respondents seeking payment of gratuity for the period he remained out of employment, and if any such representation is filed, the respondents shall consider the same in the light of the award passed by the Labour Court, and if he is entitled to payment of gratuity for the said period, they shall pay the same, else reject the same by passing a speaking order.

Accordingly, the writ petition is disposed. No costs.

N.V. RAMANA, J.

Dated: 22nd June, 2006.
KSR

[1] 1998 (3) ALD 76